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Chair

Ms. Julie Dabrusin

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● (0845)

[*English*]

The Chair (Ms. Julie Dabrusin (Toronto—Danforth, Lib.)): We will start with our 113th meeting of the Standing Committee on Canadian Heritage.

[*Translation*]

We are continuing our study on remuneration models for artists and creators.

First, today, we have Messrs. Lauzon and Lavallée, from the Society for Reproduction Rights of Authors, Composers and Publishers in Canada.

[*English*]

We have with us the Canadian Independent Music Association with Stuart Johnston and Chris Moncada. Following the order that appears on the agenda why don't we start with the Canadian Independent Music Association, please?

Mr. Stuart Johnston (President, Canadian Independent Music Association): Thank you, Madam Chair, and thank you for the invitation to present to the committee today.

My name is Stuart Johnston. I am the President of CIMA, the Canadian Independent Music Association, and with me is Chris Moncada of eOne Music, Last Gang Music, a CIMA board member and vice-chair of our government affairs committee.

CIMA is the national not-for-profit trade association representing the English-language, Canadian-owned and -controlled companies of the domestic music industry, including independent record labels, managers, publishers, distributors, artist entrepreneurs, recording studios, and the like, all small businesses.

Today you will hear us repeat recommendations that previous witnesses have given this committee. This is because there is a broad consensus within our industry on what needs to be done to improve the livelihood of our music creators. It's also important to know that creators must be defined as everyone in the music ecosystem of creating, recording, performing, and commercializing music. Creators are the artists, songwriters, and composers, and the companies that support them, such as labels, managers, and publishers. We urge the committee to review these consultations through this lens to ensure that all who create and commercialize intellectual property are properly supported and protected by Canadian law.

You've been told about the value gap, the difference between the value of our music and what is paid to our creators for the use of that music. Our four recommendations for amendments to the Copyright Act will go a long way toward closing that gap here in Canada.

First, remove the temporary $1.25-million radio royalty exemption. Since 1997 Canada's radio broadcasters have been exempted from paying statutory public performance royalties on the first $1.25 million of revenues. The federal government had amended the Copyright Act to provide this exemption to commercial radio stations in an era of low profits and uncertainty for the radio industry. Since then their profits have risen by 8,300%. This means creators have been subsidizing Canada's commercial radio industry to the tune of about $8 million a year. This exemption, unique in the world, was supposed to be temporary. I must point out that songwriters appropriately are not covered by this exemption; only performers and record labels are penalized under this system.

Second, amend the definition of sound recording in the Copyright Act to allow recorded music in TV and film to be eligible for public performance remuneration. The act does not consider recorded music as a sound recording when it's included in a soundtrack of TV or film. Because of this omission sound recordings are not entitled to royalties. For example when the movie *Titanic* is broadcast to the public the composer of the song *My Heart Will Go On* receives public royalties, but not the performer, Céline Dion. This omission is costing performers and makers approximately $45 million or more a year in loss of revenues.

Third, extend copyright term to life plus 70 years. We support SOCAN and CMPA and others in this request. Both the European Union and the United States provide copyright protection for a baseline term of life plus 70 years for authors of musical works, which includes publishers, songwriters, and composers. This will bring Canada in line with international intellectual property standards and trade agreements. It will also provide greater protection for Canadian creators of musical works, including songwriters, publishers, and composers.

Finally, renew support for music creators. We support the Canadian Private Copying Collective's recommendation for the creation of a four-year private copying compensation fund of $40 million annually. Music creators should receive fair compensation for private copies made of their music, and this fund is a good interim step until a more permanent solution can be found through legislative change. Ideally the Copyright Act needs to make private copying technologically neutral. Unfortunately, private copying is limited to media that are quickly becoming obsolete such as blank CDs.

Thank you very much. I now would ask Chris Moncada to say a few words.

Mr. Chris Moncada (General Manager, Last Gang Records/eOne Music, Canadian Independent Music Association): Thank you, Stuart.

My name is Chris Moncada. I am a resident of the Toronto—Danforth riding and the General Manager of Last Gang Records and eOne Music Canada.

Last Gang records is a 15-year old Canadian independent record label based in Toronto, representing both new and well established Canadian artists such as Metric, Stars, Death From Above, and many others. The current active roster is home to over 20 artists, most of whom are Canadian. We support and develop this roster across different lanes like radio promotion, consumer marketing, PR support, brand strategy, and retail distribution. The label, very simply, generates most of its revenue from the exploitation of the master recordings we have licensed from our artists. This includes the streaming of music on legitimate services, the sale of album and single downloads, the sale of CDs and vinyl records, and the synchronization of music to visual entertainment.

Our artist partners are paid a royalty or a percentage of net proceeds after their individual projects have recouped the agreed-upon costs that the label incurs to produce and market the projects. The biggest challenge to seeing our artist partners get paid is simply getting to this recouped position in this day and age. The rates paid out by streams are a fraction of those paid by CD, and the costs involved to market and promote the art have only risen since our industry has moved to a streaming consumption model. On top of that, the market is truly global now, and the costs to promote our artists in markets outside Canada are substantial.

Digitalization has had a monumental impact on our business. In a relatively short period of time, it has changed how our artists make their records, how we distribute them, how we market them, and how we promote them. It has redefined our relationship with the retail sector. However, what has not changed is that the path an artist embarks on to earn a living in his or her business starts with the creation of new master recordings, many of which are funded and promoted by labels. The tours, the streaming playlists, the terrestrial radio play, the press and blog interest, the TV and film placement opportunities all come after new art is created and promoted.

By making the appropriate changes to the copyright system—which my colleague, Stuart, has mentioned—the government will be supporting the companies that are the launching pad for our Canadian talent to make a truly global impact.

Thank you.

● (0850)

The Chair: All right.

[*Translation*]

Now we will hear from the Society for Reproduction Rights of Authors, Composers and Publishers in Canada.

You may begin your presentation.

Mr. Alain Lauzon (General Manager, Society for Reproduction Rights of Authors, Composers and Publishers in Canada): Thank you, Madam Chair.

Thank you, committee members.

We come before you today on behalf of SODRAC, an organization engaged in the collective management of copyright and reproduction rights for its member authors, composers, music publishers, and creators of artistic works. In so doing, we facilitate the use of our repertoire of works on all distribution platforms so that the work of our members is fairly remunerated.

We are appearing before you today as part of your study on remuneration models because we want to present an overview of the impact of digital technology and to propose some options for restoring balance in the value chain so that creators are more fairly remunerated.

I would like to present our findings concerning the economic lives of our members.

Considering the new digital business models and the modernization of the Copyright Act in 2012, we, as a collective representing creators, want to address the following points.

In section one, we want to present our findings concerning all market stakeholders.

First, there is the consumer. We have shifted from an ownership mode to a digital access mode in which the local, national, and international music repertoire is both legally and illegally accessible with a single click. Since consumers pay their Internet service providers for access to content or purchase individual subscriptions, they believe they pay enough for cultural, musical, and audiovisual products.

Second, there is the user. The current environment favours digital operators. Given the new digital business models, we are witnessing the emergence of new intermediaries. Some of those intermediaries use music as a loss leader, whereas others enjoy exceptions, which creates a value gap among digital works.

Lastly, there is the creator. In itself, digital technology benefits creators because it expands and democratizes the means of distribution, which used to be limited. Digital technology helps diversify creativity and reach audiences that otherwise would never have been accessible. It also helps completely transform the formats in which music is consumed.

However, the most significant finding concerning creators is their inability to obtain fair remuneration for the use of their works. The most prolific creators always find a way to do so, but that's not the case of the vast majority of creators, the equivalent of the middle class, who used to live from their creations before the advent of digital technology. For them, the imbalance that digital technology causes in the value of works is constantly increasing.

In section two, we want to outline the factors that have an economic impact on creators.

The most crucially important factor is, of course, the Copyright Act. Since 2012, however, that act has contained more exceptions than any other similar act elsewhere in the world. Those exceptions are wide-ranging and concern, for example, the private copying system and user-generated content. There are also exceptions for certain digital intermediaries.

Recent judgments of the Supreme Court of Canada have also conferred a new right on users.

Mandatory national French-language content quotas are also lacking in the digital space.

Lastly, although the Copyright Board of Canada plays an essential role, there is a value gap in its decisions on digital uses of works, and that has a negative economic impact on creators relative to the situation of other countries for the same uses.

That brings us to the final point we want to raise, and I'm going to let M^{e} Lavallée tell you about it.

● (0855)

Mr. Martin Lavallée (Director, Licensing and Legal Affairs, Society for Reproduction Rights of Authors, Composers and Publishers in Canada): In fact, we're talking here about the need for a copyright act that benefits authors. Ultimately, in our view, the method used to remunerate creators affords the opportunity for that creator to follow the economic life of his or her work, no matter how it is used. This principle is supported by three pillars: access to the work, authorization of the holder, and value based on multiple uses and reuses.

Let's consider those three points.

Access is not a major problem area because the digitization of works, particularly musical and audiovisual works, is now commonplace. Works are universally accessible. Digital warehouse initiatives would meet needs for access to authorized copies intrinsically containing universal metadata.

Authorization should not cause problems either since, on large scales and in high volumes, the system whereby collectives such as ours grant general or one-time licences works quite well and proceeds via an exchange of metadata. However, the many exceptions provided for in the Copyright Act nullify the authorization process. We will therefore be addressing the Standing Committee on Industry, Science and Technology on the idea of reducing the number of exceptions.

The biggest challenge is to assign value based on multiple uses. Digital operators currently benefit from broader rights than those of the creators themselves, who are the ones who provide the raw material for those distribution platforms. How have we managed to migrate from an author protection system to a user protection system? Why are creators prevented from enjoying the potential economic impact of the use of their works, either as a result of exceptions under the act or because the responsibility of operators is unclear and because that constantly requires them to go to court to assert their rights?

This result is quite the opposite of what Parliament should wish for the cultural industry as a whole. Consequently, the departments of Industry and Canadian Heritage should join forces to review the Copyright Act and transform it into a tool to defend and promote rights holders.

We invite you to consider the following potential solutions, which we firmly believe acknowledge today's evolving digital market and the state of copyright in the 21st century.

First, it must be acknowledged that content transmitted by a digital service provider is subject to a proprietary right that belongs to others. Authorities must take further action along these lines and acknowledge that certain Internet players, in particular Internet access providers, Facebook and YouTube, to name only a few, still deny all responsibility. In the new digital economy, however, they should ensure that creators are properly remunerated. Their contribution is therefore necessary.

The result of an enormous sector that distributes the music of creators but, in return, pays only a very small portion of revenues is a "value transfer" or "value gap". These two common expressions describe the transfer of the value inherent in creative works to the platforms that host and monetize them but that pay little or nothing in the way of royalties to those who have invested time and money in the creation of those works.

Second, the expropriation of creators' works must be prevented by reducing access to those works unless compensation is paid. The many exceptions contained in the present act have constantly been a recurring subject of complaints by rights holders. The parliamentary review that you are conducting must help improve the economic situation of creators. The way to do so is to reduce the number of exceptions under the act that result in no remuneration or inadequate remuneration.

Lastly, we must encourage the distribution of paid works through licences granted by copyright collectives.

In addition to maintaining greater defensive power for our members in order to assert their rights, we are developing a strong position on users. The strength of that position, however, will depend on what the Copyright Act enables us to do.

I believe our allotted speaking time is almost up.

● (0900)

The Chair: You have two minutes left.

Mr. Martin Lavallée: Very well, thank you, Madam Chair.

How can we bring users, particularly foreign users, to the bargaining table if the right we advocate is diminished by a range of exceptions? This situation has a direct impact on the remuneration method and on the value established based on the multiple uses and reuses of works we mentioned earlier. If that right is diminished, value is undermined.

Let's talk briefly about how technology can serve the cultural industry.

As a secondary concern, the various procedures for identifying and documenting used works do not cause problems for copyright collectives in fairly allocating monies collected. In future, the development of new technologies such as blockchain and artificial intelligence will definitely help improve the efficiency of the process. The real problem is the fact that users are not required to use standardized metadata. The problem stems from the lack of value perceived by those same users, who enjoy the benefits of an act that protects them more than it protects authors.

Mr. Alain Lauzon: Note that, in Europe, the European Commission is amending its directives to give copyright collectives more power in dealing with the web giants. It intends to limit certain statutory exceptions to enable copyright collectives to compel certain intermediaries to pay their fair share and thus reduce the value gap.

At the end of its review, your committee should ideally provide Parliament with proposed amendments to the act that reflect the solutions that will be presented to you today.

Thank you for listening. We will be pleased to answer your questions.

The Chair: Now we will begin a period of questions and answers.

[*English*]

I'd like to welcome Mr. Sorbara to our committee.

[*Translation*]

Ms. Dhillon, you have the floor for seven minutes.

Ms. Anju Dhillon (Dorval—Lachine—LaSalle, Lib.): Thank you, Madam Chair.

[*English*]

Thank you to our witnesses for being here today.

I have questions for everybody.

I'll start with CIMA, and if somebody else wants to step in, you can do so as well.

The first question is about the digital era. We've been hearing a lot about this over the testimony of the last few weeks. Do you believe that the digital era has had a very negative impact on artists?

Mr. Stuart Johnston: Do you want me to take that, or do you want to start with your perspective?

Mr. Chris Moncada: I'll start.

I think it's a loaded question to some degree, because from this perspective or through this lens, the value gap is obviously negative. However, from an artist's perspective, what the digital era has done from a production standpoint to a distribution standpoint can be seen as more opportunity for getting your work out to people. A lot of bands and artists have gotten to a place of profit because of that distribution model being accessible to them now, whereas before, there were certain gatekeepers that were blocking one's way to getting records onto shelves, for lack of a better term.

Mr. Stuart Johnston: If I may, it really is a double-edged sword.

Following on what Chris is saying, technology and the digital world has enabled artists and companies to more efficiently record and distribute. It allows artists more of a level playing field; they can get their product into market, but now there is such a volume of product on the market that the challenge now is discoverability, being discovered and being paid for that. It's a double-edged sword. It enables everybody to record and distribute their music but, quite frankly, not everybody should be recording and distributing their music. It does make a challenge in discoverability when there's so much music out there now. It's a double-edged sword; it's a blessing and a curse, in a sense.

[*Translation*]

Ms. Anju Dhillon: Mr. Lavallée, is there a major gap between the act and the technology? You think the act has not had time to adjust to today's technology?

● (0905)

Mr. Martin Lavallée: The act is supposed to be technology-neutral. It should apply regardless of the technology in place. It's the introduction of exceptions that has made it possible to target specific uses in the act in order simply to expropriate creators' works and strip creators of the right they may have had.

In addition to that, the Supreme Court has interpreted the act and granted a user right, contending that the act should henceforth maintain a balance between the rights of each party and that users also have a right. The problem in all that, and it should be solved by legislative means, is that we should basically go back to a technology-neutral act, an act that protects creations of the mind, regardless of distribution platform.

The creation of this user-right movement has undermined the bargaining power of rights holders, including those like us who band together to establish a strike force against foreign giants such as the GAFAs—Google, Apple, Facebook, Amazon, Spotify, and Alphabet. Where their rights are unclear or weak, when they should be as strong as they were in the analog world, that encourages players not to want to negotiate with us or pay at the fair value of those rights.

Ms. Anju Dhillon: You mentioned that social media such as Facebook were aware of the situation but that they denied responsibility. In your view, if the act changes, will Facebook and all other social media be held responsible, or will they still be able to deny their responsibility? How is it that they can deny that responsibility?

Mr. Alain Lauzon: When you talk about today's social networks, you have to understand that a concept called user-generated content has been introduced into Canada's Copyright Act. Some intermediaries, social media in particular, are subject to exceptions under the act. That's one of the things we would like to change in it.

You asked what the impact of digital technology was on responsibility. We manage copyright, but there are many types of copyright. Mr. Johnston discussed public performance rights. We more particularly manage music reproduction rights. Since people traditionally had CD readers, CD and phonogram rights were granted, as well as synchronization rights. In short, there's a full range of reproduction rights.

Before the advent of digital technology, francophone creators—whom we mainly represent—and other Canadian creators could receive national remuneration in accordance with the directives and policies the government had established.

Here's an example. You need only compare digital revenues with those generated by the traditional media. As a result of the contracts we've entered into with users, I can't give you specific numbers, but I can tell you, generally speaking, what we've observed: the distribution of a work on a digital platform will generate 50% less revenue for its author than distribution of that same work via a traditional medium such as radio.

Digital definitely has its strong points. We can't go back in time, and we have to look to the future, but we have to re-establish a balance in this area.

The Chair: Perfect.

That's all the time you had.

Ms. Anju Dhillon: It's already up?

The Chair: Yes.

[*English*]

We will go to Mr. Van Loan now for seven minutes.

Hon. Peter Van Loan (York—Simcoe, CPC): Mr. Johnston, one of the things you talked about was term of copyright extension to life plus 70 years for authors. I think you know, this is something I have a private member's bill on. It was going to be covered in any event in the trans-Pacific partnership trade agreement. Then, when the Americans backed out of that, the current Liberal government actually had the entire chapter on copyright stuff removed because it was one of the big American asks.

The argument on this is that, because it's an important trade issue with the United States, you don't want to unilaterally disarm, if you will, for your trade negotiations. You want to be able to go into renegotiation of NAFTA right now, for example, or any other trade negotiation with that as something you can exchange for something else that's a Canadian interest.

How do you deal with that question on the trade concerns that would be raised as the objection to moving forward on it now?

● (0910)

Mr. Stuart Johnston: I think the most straightforward answer to that is that the author's rights, in this case, shouldn't be used as a bargaining chip in trade. It's the right thing to do. It already has its strength in our partners around the world, our competition around the world. The U.S. and the EU, as examples, already have it. We already have it on the performer side and the maker side. It was raised in the last government, as you know.

It's the other half of the equation that we're talking about, and we are talking about the intrinsic value of music. I think that's why we're all here, and so if music has a value, and we understand that the creators of music have to be paid for that, whether it's today or for a period of time, and we're lagging behind our competition, the right thing to do is to do it now.

Hon. Peter Van Loan: I'll throw out a hypothetical to you. If, for example, the answer was, well, if we were to do that unilaterally we wouldn't be able to protect the cultural exemption in NAFTA renegotiations, would that trouble you?

Mr. Stuart Johnston: I'm not sure I'm prepared to deal with hypotheticals today, sir. We can go all day about hypotheticals.

Hon. Peter Van Loan: That's probably a prudent response.

The sound recording definition was another issue that you folks raised. Can you tell us how you would like that to be reworked? What is it that is lacking in the definition now, and do you have an alternative wording of how that could be changed? This is within the act, right?

Mr. Stuart Johnston: Yes it is.

The current proposed wording is being worked on right now. I believe my colleague Graham Henderson was here last week talking about the same thing.

Hon. Peter Van Loan: I think I asked him similar kinds of questions.

Mr. Stuart Johnston: Yes, and they're putting together some language that hopefully will be before you in short order. We're working on that right now.

Hon. Peter Van Loan: The other one of your asks was this radio exemption, and this is the first $1.25 million, I think it is, of revenue to a radio station is exempt from commission. That was—I wasn't there but I believe—instituted so that you had some protection for the mom-and-pop radio stations, the small-town radio station. The argument that is made by folks in your industry is that when that was done, there were a lot more mom-and-pop radio stations. There's been a lot of industry consolidation since, and everybody belongs to the big giants. We know that a lot of them do, but not all of them do.

Is there a compromise, an approach here that can be found that still provides that protection for the small-town radio station, which literally provides a kind of community service to a small town, while at the same time allows you to achieve some of your objectives reflecting the change in the industry writ large? Do you have an objection to something protecting or achieving that original objective for the mom-and-pop radio station?

Mr. Stuart Johnston: No, of course not. The year 1997 was a different era for Canada's radio broadcasters, private radio broadcasters, the commercial broadcasters—CBC, as an example, is exempt from this exemption—but it was a different day. As you pointed out, there were many more mom-and-pop stations across Canada.

In the last 20 years, of course, we've seen a tremendous vertical integration in the industry, consolidation of the players. But where there are small family operations that are not part of the conglomerates, for sure.... One could even look at those earning $1.25 million a year in revenue—or less—pay the $100, as opposed to the first $1.25 million is exempt, other than the $100. I'm sure there is a compromise to protect the small ones, but really it comes down to the premise. It's a theme that we're all saying, music has value. If you're going to use the content and commercialize it, please pay the value.

Hon. Peter Van Loan: I'm going to ask the other set of witnesses to give your thoughts on the exact same three questions, and if there are other changes you would, specifically, want in. We have these three specific ones, and I think that's very helpful to have specific recommendations for a change.

● (0915)

Mr. Alain Lauzon: Thank you very much.

You have to understand that we are not on the same basis as the copyright that we represent. CIMA and Mr. Johnston represent what we call the song recording, and we represent the works. In the law, it could be written differently. We can assume that for the works, there's not that level of exception with the radio broadcasters compared with the others.

Hon. Peter Van Loan: You have all the protections they're complaining they don't enjoy yet.

Mr. Alain Lauzon: I would say that's something.

We issue licences for non-commercial radio, very small licences. All of them are lower than 1.25%, but we issue licences. It's our right because we have the right to issue licences. They may be small amounts, but, at least, for the use of the music, our members are paid under the law. It's not an exception. When it comes, and when we were in front of the board with the low-revenue stations, we got them a lower rate because we have the right, but we discussed it, and we came to an agreement with them for the low station. It's the difference between having an exception and having us come to an agreement with the radio broadcasters related to that level.

Hon. Peter Van Loan: Would you prefer it to be just contractual arrangements or Copyright Board arrangements rather than a statutory change?

Mr. Alain Lauzon: No, we went through the Copyright Board, but we still discuss those kinds of things. Our point is that we receive fair value. We understand that small radio stations don't have the financial ability that the large radio stations have, but we prefer to negotiate to have the right instead of an exception.

[*Translation*]

The Chair: Now I'll turn the floor over to Mr. Nantel for seven minutes.

Mr. Pierre Nantel (Longueuil—Saint-Hubert, NDP): Thank you very much, Madam Chair.

Thanks to everyone for being here this morning.

My first question is for Mr. Moncada.

[*English*]

One of the biggest members of your association is Arts & Crafts Productions. I think this is a very interesting name for a label because this is precisely what a label stops doing, which is professionalizing the artist. I mean it in a very good way. The competition internationally is super industrial. It's not arts and craft artists doing things in their basement that is the big invader. Everybody is listening to the same stuff, discovering all sorts of stuff. There are many good things about it.

Since you are representing independent music labels, are there any nuances you would like to bring to the presentation by Music Canada? Of course, representing all American labels, they do have a good amount for budget and representation. They made a very good presentation and laid out some issues. Are there any nuances you would like to provide concerning what they said?

Mr. Chris Moncada: I haven't seen what they said, but I can add some colour to an independent Canadian label in a global marketplace, if that's what you're asking.

I think the major difference between what we do and what they do is that they have the luxury of what I call "catalogue cover" every quarter or every month. A label like Warner knows that old Fleetwood Mac records and old Neil Young records are going to stream and sell a certain amount every month. That's in their budget every quarter. They know they're going to get that, so they can take risks on new talent accordingly. A label like Arts & Crafts or Dine Alone Records or Last Gang Records does enjoy some catalogue cover, but not nearly the amount. I'm eating what I kill every quarter. With that risk comes a lot of scrutiny and a fair amount of stress to make sure that you're seeing success with current music all the time.

Mr. Pierre Nantel: Thank you. What an expression; it's like a squirrel.

We all know that what you're referring to is the parallel in Quebec with the ADISQ, being of the same type of companies but probably a bigger commercial volume, so they see the difference very obviously. It's important to nuance the points of view that are brought up here.

● (0920)

[*Translation*]

Messrs. Lauzon and Lavallée, you mentioned value gaps and the migration to new listening platforms. The Minister of Canadian Heritage constantly talks about a cultural ecosystem, but it's also a Rubik's cube consisting of various issues that influence the situation. The only observation we can make at this time is that rights holders, that is to say, the creators, are not the ones who reap the value. That's very clear, and everyone agrees. The CRTC has clearly stated it, and people in the business have breathed a sigh of relief: the arbitrator just said something that was consistent with reality.

What do you think of its recommendation that we finally ask Internet access providers to make a contribution?

Mr. Alain Lauzon: Several years ago, all stakeholders in the cultural and music community requested that Internet access providers be required to make some form of contribution. However, developing that idea is still the biggest problem. The willingness of Internet access providers to make a contribution is also an obstacle. I've been working in the industry for 15 years, and we've definitely been talking about this situation in the context of the Internet for 10 years.

Several potential solutions are possible but one thing is certain, and that's that we're in favour of the idea of asking Internet access providers to make a contribution.

Mr. Pierre Nantel: I would also like to discuss the need to reform the Copyright Board of Canada. The CRTC has not addressed this issue because it's not at all its responsibility. On the other hand, we've heard a lot about it. Unfortunately, there are no publishers among us today. I'm surprised that this issue hasn't arisen more often since the start of these hearings, but everyone agrees on the strange nature of this agreement that the publishers have signed, which provides that fractions of cents will be paid to rights holders in the context of ongoing distribution services. We won't be able to change this situation. The major artists represented by these labels and the publishing houses themselves have lamented the fact that their music, on a piecework basis, is not worth much.

Do you think we can hope that a compensatory measure will be adopted for Canadian rights holders whose visibility, discoverability, and markets are undoubtedly more restrictive than those of international artists?

My question is for Messrs. Johnston and Moncada, as well as Messrs. Lauzon and Lavallée.

[*English*]

Mr. Stuart Johnston: There are so many answers to that. There are so many nuances to that broad question. We were encouraged by the CRTC report last week. We know the Broadcasting Act is going to be reviewed over the next year, and the CRTC report is hopefully going to form the basis of that review or at least feed into that review. I think that CRTC report had a lot of very positive recommendations along the lines of what you were just discussing, with regard to ISPs and levelling the playing field. That will go a long way.

The fact that we're here today reviewing the Copyright Act and looking at ways to improve the Copyright Act to hopefully keep on top of the modernization of the digital world we're living in is, I think, very positive, as is looking at removing the exemptions and examining the exemptions that we're all talking about—the radio exemption, the sound recording definition, and whatnot. All of these pieces will feed into the system and strengthen the foundation for our creators.

Going to the question you're talking about, with regard to the deals with the digital service providers, the Spotifys and whatnot, those are in part market rights, particularly the fully interactive services like Spotify. They are negotiated via labels. Fortunately for the independent community in Canada and around the world, we have a body called Merlin. Merlin is based in Amsterdam, London, and New York. They represent 20,000 independent labels around the world, and they negotiate with 20 digital services like Deezer, Spotify, and YouTube, so we have someone in our corner, the independents, who has a very strong voice. We represent 12% of the digital market through Merlin.

There are things happening, and there are organizations out there that are working very diligently, but for the purposes of today, there are many things we can change within the market in Canada through the recommendations that we and others who have appeared before you are making.

● (0925)

[*Translation*]

Mr. Pierre Nantel: Is it correct that—

[*English*]

The Chair: We'll have to leave it on that note, unfortunately. Maybe we can carry that through in the next sets of questions.

We are now going to Mr. Hogg, for seven minutes, please.

Mr. Gordie Hogg (South Surrey—White Rock, Lib.): I will be sharing some of my time with Mr. Virani.

I think the four recommendations you came up with at the beginning, Mr. Johnston, are pretty similar to things we have been hearing through all of the testimony, and Mr. Lavallée's question with respect to how we have come to have a system in which we have moved from protecting authors to protecting users is then contained within that.

Are there some principles that underlie all of these recommendations? Is there a set of principles we might look at because we don't know what the future will bring in terms of digitization? You made reference to blockchain and the issues around that.

Are there some principles that should be inherent in these recommendations that made reference to the issue of equity? I'm not sure exactly what equity means. It probably means something different to each shareholder or each segment of the industry. Are there some foundational principles we should be looking at that underpin a number of the recommendations, for instance the four recommendations that have been made for virtually all of the testimony we have received, some things we might look at that will give us a little more endurance into the future?

Mr. Stuart Johnston: I think before you there is a document we distributed on behalf of, I think, 19 music industry associations. We submitted it to the Department of Canadian Heritage in the fall. SODRAC is a signatory; CIMA is a signatory, as are CMPA and many others. We have broken down these recommendations into principles. They are real-world applicability, forward-thinking rights, and consistent rules. We have broken down our recommendations under each of those headings.

I think what it comes down to ultimately is that we need to ensure that those who create and commercialize intellectual property are protected and paid under our law. I think that's the basic premise.

Mr. Chris Moncada: I can add to that, Stuart, if you want.

Mr. Stuart Johnston: Please.

Mr. Chris Moncada: Just to put an exclamation point on Stuart's comments, the model, as we see it now, is that the industry has several Canadian players at a certain level from an independent label perspective. The health of those labels is what I think we're talking about here. The independent sector historically will do artist-friendly deals that will keep artists under contract for a short period of time. What we see happening time and time again is that artist X will sign a deal with independent label A, B, or C in Quebec or in Canada, and it either goes well or it doesn't. If it goes very well, then more times than not that artist is essentially taken out of that Canadian independent label with a large advance offer by an American company or a U.K. label. They then continue their career outside of Canada from an IP perspective.

So that's what Canada is losing: the IP. When we talk about how well Canadian music is doing, it's Drake, it's Bieber, it's Mendes. Those are Canadian passport holders, but they have American contracts. They are not contributing to the Canadian IP pool.

That said, Mr. Hogg, I think what we're trying to get at here, and maybe this is a good kind of common theme for you, is that if we can have more Canadian labels rise up from just that lower level to a more middle level, where that second contract that the artist needs can be funded and exported properly by a Canadian company, the IP stays here. The Canadian company grows and the artist maybe continues their business here rather than having to go somewhere else to do it.

All of what my colleagues here are examining will drive our bottom line and help us do that.

[*Translation*]

Mr. Martin Lavallée: With your permission, I'd like to add a partial answer.

In our minds, the principle underlying all these objectives is to establish a Copyright Act that clearly defines the creator's right, that clearly defines the ins and outs of what rightly falls to the creator. Once that's established, the rest will flow from it.

Earlier Mr. Nantel discussed compensatory measures that you would like to see implemented. However, we don't need compensatory measures if artists are compensated based on the fair value of their rights and if all that can be negotiated at the bargaining table. Leverage is needed to bring the players to the bargaining table. That lever is the act. An authorization must be obtained, and the negotiation is completely undermined if there's the slightest doubt that the authorization can be obtained. Consider a situation in which the person states at the start of the negotiations:

● (0930)

[*English*]

"I'm not even sure if I need to pay you. I may do so out of political reasons, but.... Well, let's talk."

[*Translation*]

At that point, you immediately know that the value has fallen by half.

[*English*]

They give you the sense that you have no choice.

[*Translation*]

In my opinion and that of the Society for Reproduction Rights of Authors, Composers and Publishers in Canada, authors and creators should have the freedom to negotiate an agreement respecting their works in the conditions they wish and not be prevented from negotiating such an agreement because they are subject to an exception provided for in this act.

[*English*]

Mr. Gordie Hogg: Madam Chair, how much more time do I have?

The Chair: You have a minute and a half.

Mr. Gordie Hogg: Okay.

Go quickly, Arif. Sorry about that.

Mr. Arif Virani (Parkdale—High Park, Lib.): Thanks.

I wanted to ask you a few questions, Mr. Johnston, because through the questions posed to you by Mr. Van Loan, you were sort of put into the issue of cultural protections and trade. The impression that was left with the committee was that this was somehow a leverage piece, or that the Canadian government was not doing what it needed to do with regard to cultural protection in terms of trade.

I want to ask you for your comments on the fact that in the CPTPP, the agreement that was renegotiated after the exit of the United States, our government ensured that the cultural exemption continued to exist, and extended it, for the first time ever in Canadian trade history, to digital content and web content, allowing us to regulate in this area.

Minister Joly was very clear that the fact that it wasn't on the table in the first go-round was what prevented the Prime Minister from signing on to the agreement in the first go-round. We doubled down on that and ensured that it was protected, for the first time.

How does that impact the exact issues you're talking about with regard to supporting Canadian artists in terms of their remuneration in the digital world?

The Chair: If you're able to answer that, you have half a minute.

Mr. Stuart Johnston: Oh, geez—answering cultural protection in half a minute.

Voices: Oh, oh!

Mr. Stuart Johnston: The only thing is that it's obviously the right thing to do. I mean, that protects our rights around the world. It sets a precedent for other trade negotiations, now and in the future. It echoes the principles of what we have with the EU trade agreement, with the original NAFTA, and now with the Pacific trade partnership.

Wording like that, and others like it, will only strengthen our position in the marketplace globally.

The Chair: Now we will go to Mr. Shields.

You have five minutes, please.

Mr. Martin Shields (Bow River, CPC): Thank you, Madam Chair.

I found the conversation very interesting. Related to it—maybe a little differently—I have a son who was a senior executive in a company that has a large yellow and blue store in this town. He actually set the one up in this town. He worked for that corporation, which is one of the world's largest worldwide family-owned furniture businesses.

In Sweden they have a town that's five years out where they predict to go, and they have a town 10 years out. When you talk about the future, he's now moved into my daughter's and other businesses. You mentioned access. They don't care where in the world they get their products for their business. They just want them now. They're getting things out of China and the U.K., but they get them instantly—within days—from anywhere in the world. When you're talking about the future, when you're talking digital, when you're talking down the road—as this major company does with a community of 3,000 to 5,000—you're talking about what it will look like in five or 10 years, and you're wanting us to put in legislation that is going to be for the future. As I say to my kids and my grandkids, it's all about access. Access is it.

What recommendation would you make to us for your future? You're wanting legislation for the future, what is it?

Mr. Stuart Johnston: Well, taking private copying as an example, in part we're saying that it should be technologically neutral, because we don't know what the technology will be five or 10 years down the road. I think the fact that the act has a built-in review clause every five years is very important, and the fact that we're here today is a testament to that. We can't predict what's going to be down the road 10 or 15 years from now, but what we can do is ensure that we're on top of things as much as possible legislatively.

I would strongly recommend, then, that this five-year review continue five years from now and then again five years after that. That will, in part, ensure that we stay on top of what the trends will be going forward.

[*Translation*]

Mr. Alain Lauzon: We must look to the future. We're talking about the signed international agreements. Consider CETA in particular. However, Canada must maintain its independence and integrate his own policies. The international market is a good thing. However, when it comes to creation, assistance must mainly be provided to local organizations, and not just at the start, but also over a period of time. Once they're big enough, they can go international. Canada must nevertheless be able to establish, with its trade partners, its ability to implement its basic rules within the country.

You must also clearly understand the difference between the Canadian market and the Quebec market. French-speaking Quebec is more a niche market than the anglophone market within the diverse global market. The francophone market may be situated slightly more on the boundary of this digital upheaval. If we don't establish national rules similar to those we've set for commercial radio, we'll have to prepare for the future in a different way.

● (0935)

[*English*]

Mr. Martin Shields: Mr. Johnston, you represent small businesses, and my kids are in small businesses. I have two mantras: one, get rid of the red tape; and two, government, get out of my way and I will succeed. You represent small businesses.

Mr. Stuart Johnston: Yes.

Mr. Martin Shields: What is the challenge for small businesses? I have family involved in small businesses, and they have been very successful in a number of them, and that's what they tell me.

Mr. Stuart Johnston: Generally speaking, if you're talking across the board about all sectors, I would agree with you. The two challenges my members have right across the board, whether they're English or French, are cash flow and access to capital. We're not selling furniture. We're selling an intangible product. It's very difficult to get traditional business loans from the bank to continue with capital.

That's why a program such as the Canada music fund is so important. It provides the seed capital my members can leverage in the marketplace. They can then invest in artists' careers. They can discover, develop, market, commercialize, and export.

When we're talking small businesses, yes, get rid of the red tape and streamline the processes as much as possible, but we need legislation such as the Copyright Act to help protect our products here and around the world. We need programs like the Canada music fund to provide those seed dollars that are then leveraged by the industry and invested in the artists. We need a strong Broadcasting Act that recognizes some of the themes the CRTC brought forward in its report last week.

Government has a place in our industry, and I think it is a very strong partner in our industry, because, as Chris said, we are a global product. As soon as you put your music online, you're a global product. Because our market is so small in Canada, we need to be in markets around the world and we need to be able to chase those pockets of international markets where our artists are finding success. That costs time, money, and investment, so we need government to be a partner.

The Chair: Thank you, we will now be going to Mr. Hébert.

[*Translation*]

You have five minutes.

Mr. Richard Hébert (Lac-Saint-Jean, Lib.): Thank you.

My first question is for Mr. Lauzon or Mr. Lavallée.

You talked about reducing the number of exceptions contained in the act because there appear to be some hitches there. However, I especially noticed that you talked about the lack of user obligations.

I'd like to make sure I clearly understood your comment. When you say user, do you mean the listener or the Internet service provider that reproduces the work?

Mr. Martin Lavallée: We specifically mean the Internet service provider, or at least the cultural presenter, one that uses the product created by our members, our repertoire, for commercial purposes.

Mr. Richard Hébert: So the fish is easier to catch because it's bigger.

Mr. Martin Lavallée: Yes, but I constantly come back to my mantra: the right and its responsibility must also be clearly defined in the act.

Mr. Richard Hébert: You also mentioned upcoming copyright changes in Europe. What are those changes? Should we draw on some of those changes?

● (0940)

Mr. Alain Lauzon: International treaties in the digital field were signed around the world in 1996. Just think of the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty. The European countries began to introduce these elements into their statutes. The European Commission did it first, and then the countries did the same in 1997 and 1998.

No amendments were made to the Copyright Act from 1997 to 2012 because of the political situation in Canada. Consequently, we are several years behind in integrating those changes, which have been ratified around the world. It's no one's fault; it's the situation that has occurred.

European countries are slightly ahead of us in what they're seeing in their market. The directives they'll be introducing address the entire concept of the responsibility of certain intermediaries. In many countries, those intermediaries have, for all kinds of reasons, enjoyed an exception that they may have been granted as a result of pressure exercised around the world. Today, we see that there are some problems. We talk about the GAFAs, for example. Countries are in the process of restricting or limiting these exceptions so that, under the acts that are passed, players that use intellectual property will have responsibilities, precisely in order to eliminate this value gap. What are we talking about? In particular, we're talking about user-generated content and network intermediaries.

Mr. Richard Hébert: Thank you.

I have some questions for Mr. Johnston.

You mentioned exceptions for commercial radio. I was surprised to learn that the commercial radio industry's profits have increased by 8,300% since 1995. That's a lot; it's an astonishing percentage.

My question, more specifically, is as follows. You talk about at least being able to recover production costs. What is the production cost percentage in a work?

[*English*]

Mr. Stuart Johnston: That would be more your—

[*Translation*]

Mr. Richard Hébert: Mr. Moncada, do you want to respond?

[*English*]

Mr. Chris Moncada: It varies, to be honest. If we were to fund the production of a 12-song record album by an established group that is used to working in the finest studios in the United States and working with the most renowned production teams and engineers, it could be half a million dollars to make some of these records. Other records are made for $10,000 in someone's basement or on a laptop on a plane. It really does run the gamut, as far as production costs. If you're dealing with a 12-piece band, you're dealing with 120 channels. If you're dealing with a bedroom producer, it's a pair of headphones and a keyboard. It's a really difficult question to answer. However, we take all of that into consideration when we do our forecasting. We know that we have three orchestral rock bands and four bedroom producers, so we forecast accordingly.

[*Translation*]

The Chair: You have 30 seconds left.

Mr. Richard Hébert: Thank you for your comments.

[*English*]

The Chair: Thank you to all of you for your presentations today. It was very helpful with all the questions and answers that you've provided to us.

We will be suspending briefly, so that we can get our next panel of witnesses.

● _____ (Pause) _____ ●

● (0945)

The Chair: I want to make sure we have enough time for our second panel, so why don't we get started?

We have with us today from ole, Jason Klein.

[*Translation*]

We also have Gilles Daigle and Geneviève Côté from the Society of Composers, Authors and Music Publishers of Canada.

[*English*]

Why don't we start with ole, please?

Mr. Jason Klein (Vice-President, Legal and Business Affairs, ole): Good morning, Madam Chair and members of the committee. I'm Jason Klein, Vice-President of Legal and Business Affairs with ole. Thank you for inviting us here today.

As a leading Canadian music publisher, record label, and rights management company, music and copyright are at ole's core. With the rapid shift to digital content consumption, it is essential that Canada address the challenges that threaten our creators' ability to earn a living and make cultural business a risky proposition for investors. Changes to our Copyright Act are needed to ensure that music creators and companies like ole that support them can continue to thrive in the digital world. Since the committee has already heard from our friends at the Canadian Music Publishers Association, I trust you are familiar with the important role of music publishers, which is often either overlooked or misunderstood. If you are not, I would be happy to address any questions you have following these remarks.

For now, I simply ask that, in considering remuneration models, we be careful not to lose sight of the importance of songs, songwriters, and the publishers who invest in them. Like the creators we support, publishers operate largely behind the scenes. The involvement of record companies is far more visible, given the celebrity of recording artists and consumer-facing promotion of records, but it is important not to undervalue the fundamental contribution of the songwriters and the investment of time, money, and expertise that publishers make in them long before a hit song is written, recorded, released, and becomes part of our cultural fabric.

Ole is Canada's largest independent music publisher and one of the world's foremost rights management companies. We are proudly Canadian-owned and operated, employing close to 100 people at our Toronto head office and around the same number across six offices in Nashville, New York, Los Angeles, and London. Ole was founded in 2004 by Canadians Robert Ott and Tim Laing, with backing from the Ontario Teachers' Pension Plan. Fourteen years later, with over $550 million U.S. invested in music copyrights, we remain a 100% Canadian company that competes globally in a business dominated by foreign multinationals. In fact, ole ranked 8th in Billboard's ranking of top music publishers for the first quarter of 2018.

Our catalogue includes over 55,000 songs, including works by Canadian legends like Rush, Lighthouse, and Stompin' Tom Connors, and international hit makers like Timbaland, Rami Yacoub, and Liz Rose. These songs have been recorded by Beyoncé, Justin Timberlake, Taylor Swift, and many other top international recording artists.

Our 60,000-plus hours of film and TV music include catalogues from leading Canadian producers and distributors like Bell Media, Corus, DHX, eOne, the National Film Board, and major Hollywood studios like Sony Pictures, MGM, and Miramax.

Ole's activities also extend well beyond traditional music publishing. Our industry-leading production music businesses—Jingle Punks, 5 Alarm Music, Cavendish Music, and MusicBox—offer custom composition services and over 750,000 library tracks for use in film and TV productions, and our Compact Media division in London is a world leader in audiovisual secondary rights administration, representing more than 700 film and TV producers and distributors around the globe.

We also operate a robust record label group, including the legendary Canadian rock label, Anthem Records, home of Rush, Big Wreck, and The Tea Party, and our latest signing, a band called Stuck on Planet Earth.

Ole's substantial investment in music copyrights has a significant ripple effect through Canada's creative ecosystem. Our acquisition of major foreign catalogues like MGM and Sony Pictures has resulted in millions of dollars being redirected to Canada annually. That funds the continued development of new songwriting talent and further acquisitions of domestic and foreign catalogues, and through our investment in music and secondary rights of Canadian producers, we contribute to the financing of new Canadian film and TV production.

Our continued success in rights management also turns on our ability to effectively match, conform, and process the copious amounts of data that result from the growth of digital platforms around the world. Effective data management is essential to achieving revenue completeness and delivering accurate reporting and remuneration to our songwriters, artists, and other rights holders. To that end, we've invested millions of dollars developing proprietary software called Conductor, an end-to-end rights management and data processing solution that far exceeds the capabilities of available third party solutions.

Ole's business relies on Canadian and international copyright laws to protect the value of creative works, but the rapid shift to digital poses real challenges to our business and our continued ability to return value to creators. As you know, broadcast and cable TV are quickly giving way to over-the-top video-streaming platforms, and paid music download stores are largely being replaced by subscription, and even worse, ad-supported streaming services.

● (0950)

The result is twofold: a significant increase in music access and consumption; and a significant decrease in the remuneration, if any, that is paid to the creators and those who invest in it. This trend needs to be checked, or the consequences for creators and those who support them will be dire.

It is becoming increasingly difficult to justify serious investment in music without real potential for returns. Gaps in Canada's copyright laws are reducing or even eliminating existing revenue streams while impairing the development of new ones. The result is a growing value gap that requires urgent attention.

Commercial enterprises that operate digital services should not be allowed to continue to profit from the exploitation of music without returning fair value to those who create and invest in it. For Canadian music to survive and companies like ole to continue to invest heavily in cultural assets, this value gap has to be addressed.

Through this review, we urge the government to establish a framework that ensures that those who create and invest in music receive their fair share of the economic benefits, and that recognizes the responsibilities of new delivery services and the value music brings to their businesses.

We support several specific recommendations already presented to the committee by the Canadian Music Publishers Association, Music Canada, and others, namely: addressing gaps in the protection and unintended consequences of the 2012 amendments, including exceptions that have relieved commercial users from the obligation to pay for commercially valuable uses of music; addressing the value gap by ensuring that network services that benefit directly or indirectly from the exploitation of music cannot avoid payment or responsibility by hiding behind safe-harbour protection; extending the term of copyright to life plus 70 to align with the majority of our major trading partners; encouraging continued investment in classic catalogues and extending the period in which works continue to generate revenue that could be reinvested in the creation and acquisition of new works; ensuring that the private copying levy is made technology neutral to cover tablets, smart phones, and other digital devices ordinarily used to store music; and finally, ensuring that the Copyright Board is adequately equipped to render timely decisions with due regard to the value of music to commercial users —and we appreciate the efforts already under way in this regard. These steps would go a long way to restoring much-needed balance to our copyright system.

In conclusion, ole takes great pride in its significant contribution to Canadian music and cultural communities to date, and we look forward to a bright future. We call on our government to solidify Canada's reputation as a leader in the protection of creative content and cultural business, and to help position Canadian music and companies like ole to thrive in the digital world.

Thank you again for inviting us here today and for hearing our concerns.

● (0955)

The Chair: Thank you.

[*Translation*]

Now we'll hear from Gilles Daigle and Geneviève Côté from the Society of Composers, Authors and Music Publishers of Canada.

Mrs. Geneviève Côté (Chief Québec Affairs Officer, Society of Composers, Authors and Music Publishers of Canada): Thank you, Madam Chair.

My name is Geneviève Côté, and I am Chief Affairs Officer at SOCAN. My colleague Gilles Daigle is SOCAN's General Counsel.

SOCAN is the society that manages public performance rights for authors, composers, and music publishers. We currently have 150,000 members, and we also represent the global repertoire of music works in Canada. We thank you for this opportunity to speak to you.

No one will be surprised to learn that SOCAN has been pleading for many years for Canada to establish robust copyright statutes to permit fair and equitable remuneration for creators. The Copyright Act has always been and always will be the cornerstone of the entire Canadian creative sector.

Where do we stand on all the technological changes we are currently experiencing? The way creators are remunerated has vastly changed in recent years. Copyright royalties have always been an essential part of our creators' remuneration, and that is more than ever the case today.

As regards SOCAN and its performance royalties for the use of musical works, it is true that we are collecting record royalties. That is attributable in part—and I do mean "in part"—to the increase in revenues from online streaming. However, that does not mean that creators and their publishers are making more money.

When we published our results this year, we pointed out that the vast majority of our members who had received royalties for the ongoing distribution of their music in 2017 had received, on average, only $38.72 for their work.

Our members rely on various uses of their creative works. However, for some of those uses, the revenues they previously enjoyed as a result of other media have virtually disappeared. Royalty revenues from new uses do not compensate for the overall revenues previously generated.

The fact nevertheless remains that the contribution of copyright to a constantly changing digital environment is, now more than ever, becoming one of the pillars of creators' remuneration.

As The Honourable Mélanie Joly said in her speech on Creative Canada,

> Investing in our creators also means ensuring they are fairly compensated, and can protect and make the most of their intellectual property.

SOCAN is one of the signatories to the brief filed by the Canadian Music Policy Coalition. We support all the recommendations contained in that document. Today, we want to emphasize three aspects of the Copyright Act.

The first aspect is the extension of copyright protection, which we have already discussed this morning, from 50 to 70 years after the author's death. We want to take this opportunity to thank Mr. Van Loan for recently introducing the private member's bill that he discussed earlier.

With its current term of protection, Canada is a poor player on the international stage. Our main trading partners, including the United States and all members of the European Union, long ago extended protection to 70 years after the author's death. In Mexico, that protection even runs to 100 years after the author's death. Our creators here are clearly less protected than those abroad. The international standard extending protection to 50 years following the author's death was adopted in 1886. Governments at the time wanted two generations following the author's death to enjoy protection of the work. As we may all agree, life expectancy has sharply increased since the 19th century. Our major trading partners have clearly understood this.

So I will ask you the question directly: does Canada want to remain in the same category as North Korea and Afghanistan in this area? We hope not. Let's take this opportunity to show leadership on this issue and restore Canada to its proper place on the international stage.

Some commentators—very few, to our knowledge—will tell you that increased copyright protection will be provided to the detriment of consumers. However, there is no evidence that consumers would be put at a disadvantage by an extension of copyright protection.

Now I will turn over the floor to my colleague Gilles Daigle.

● (1000)

Mr. Gilles Daigle (General Counsel and Head of Legal Services, Society of Composers, Authors and Music Publishers of Canada): Thank you, Mrs. Côté.

Good morning, ladies and gentlemen.

A second aspect that the committee should examine is the loophole created by subsection 32.2(3) of the Copyright Act, which provides for an exception for so-called charitable organizations that use music "in furtherance of a religious, educational or charitable object." Let's be clear: we at SOCAN do not intend to penalize activities that are charitable in the true meaning of that term but would like instead to restrict organizations that circumvent the act and attempt to avoid paying what they owe.

Allow me to explain. Certain organizations, theatres, and festivals that have multi-million-dollar budgets currently assert that they are charities within the meaning of the Income Tax Act. Since they have that status for tax purposes, they claim they are not subject to the Copyright Act by virtue of section 32.2. Although the Montreal International Jazz Festival pays SOCAN royalties in accordance with the applicable tariffs, many others, even though they make extensive use of musical works, refuse to pay those royalties, relying on the exemption for charitable organizations.

To close these loopholes, we propose two changes. First, It should be specified that the exception under the subsection in question applies only where the music is used without any intent of monetary gain. That's already the case for the preceding exception, which applies to agricultural and industrial fairs. It should also be stated that charitable status under the Income Tax Act is not in itself sufficient to allow the exception. Consequently, the act should provide that a proper benefit concert may qualify for the exception, whereas an event in which the principal activity is to present truly commercial concerts may not.

The third aspect is the private copying royalty. The private copying system was established to offset lost revenue due to the emergence of certain media, cassettes in particular and, subsequently, blank compact discs. As you may imagine, the sums previously collected and distributed to creators evaporated, and only a few crumbs remained. The present system must be reviewed and should include a technology-neutral element so that new digital media, which are now the standard for music listening purposes, are incorporated. Here we are talking mainly about tablets and smart phones. Together with the music industry, which is united on this point, we also advocate the establishment of a transition fund of $40 million a year over five years to support significant use of our creators' musical works.

In addition to these three main aspects, we support the request by certain groups that the exception under which commercial radio stations pay no royalties in respect of sound recordings and performers on the first $1.25 million of revenue be repealed. We believe this is an injustice that must be corrected. It was intended as a transitional measure but has become permanent for no reason. The same is true of the change made to the definition of sound recording: we believe this isolated exception is obsolete and unfounded.

We take this opportunity to underscore the government's efforts with respect to the Copyright Board of Canada. More particularly, the government has begun to reform the organization and invest additional funding in it. We hope to see a reduction in the observed time it takes for the board to render its decisions.

● (1005)

Ladies and gentlemen, it has taken 15 years for the Copyright Act to be amended for the digital era. During that time, enormous changes have occurred in the way we consume music. From 1997 to 2012, smart phones became omnipresent, streaming and downloading surpassed sales of physical copies, and new services afforded consumers finger-tip access to the global musical repertoire. The purpose of the amendments made in 2012 was to recognize the changes in the digital landscape, but additional efforts must be made to bring the act into the modern era and guarantee a fair balance between users' rights and those of creators.

Let's not wait another 15 years before making further significant amendments.

Thank you.

The Chair: Thank you.

Now we will begin our period of questions and answers.

Mr. Hébert, you have the floor for seven minutes.

Mr. Richard Hébert: Thank you, Madam Chair.

Thanks to the witnesses for some interesting explanations.

My first question is for Mrs. Côté from SOCAN.

I'm surprised to learn that average streaming royalties amount to only $32.72.

Mrs. Geneviève Côté: In fact, it's $38.72.

Mr. Richard Hébert: Is that per work, per year?

Mrs. Geneviève Côté: It's the amount received by those of our members who have received royalties. You know how to calculate an average: you take the total amount of royalties collected and you divide it by the number of people who have received royalties.

Since our members include stars like Drake and The Weekend, the average of $38.72 means that other members received only five cents or a dollar. We're talking about an average for the members who received revenue.

Mr. Richard Hébert: So you're talking about an annual average.

Mrs. Geneviève Côté: It's the annual average for 2017.

Mr. Richard Hébert: That's quite surprising.

My next question is for Mr. Daigle.

You talked about not-for-profit organizations and benefit concerts. The blueberry festival in my region, in Lac-Saint-Jean, for example, will be presenting three or four artists such as the Cowboys Fringants. Am I to understand from your explanation that the festival's organizers are contravening the act or that the festival is considered a not-for-profit organization?

Mr. Gilles Daigle: I certainly wouldn't want to target the festival in particular because I don't know its situation, but some festivals don't pay us. I'd like to take it for granted that that one pays us, but some don't pay us. What especially troubles us here are the very big or enormous festivals such as the jazz and blues festivals that refuse to pay us on the ground that they are charities within the meaning of the Income Tax Act. However, the fact that they're designated as such doesn't automatically mean they're using musical works for charitable purposes.

Here's a specific example. The benefit concert that was held following the Lac-Mégantic tragedy was definitely a charity event, and, to my knowledge, all those who took part in it donated their time, products, and services. SOCAN would've done the same had it had to do so. The exception is entirely appropriate in that case.

However, it's different for festivals that are simply commercial in nature, that have nothing to do with fundraising, and that may be considered as competing with commercial producers. Why would those organizations, which take in millions of dollars in revenues, not pay the creators of the music that is performed, particularly since their only ground is that they've obtained charitable status from the Canada Revenue Agency?

● (1610)

Mr. Richard Hébert: The act is often an obstacle: it can be circumvented.

My next question is for Mr. Klein.

Our era being what it is, works are increasingly disseminated around the world via the Internet. Unfortunately, artists make poorer livings from them. Could we say that the remedy is killing the patient?

[*English*]

Mr. Jason Klein: I'm not entirely sure I got the full question there, but I think certainly the result of digital has been that there is a lot more access, and—

[*Translation*]

Mr. Richard Hébert: Let me clarify my question. Since a work is now more widely distributed—for example, a song can be heard 100 million times a year instead of three times at the blueberry festival—that should work in its creator's favour. In other words, is the problem the fact that distribution is now so extensive? As the saying goes, is the remedy killing the patient?

[*English*]

Mr. Jason Klein: In a way, I think you are right. Financially, certainly, it seems to be worse because the numbers aren't coming in that reflect the increased consumption. We certainly have more access to music and more consumption of music than we probably ever had, which is a good thing when you look at it from a consumer perspective and potentially from an artist's perspective. But when it comes to the artist being remunerated, and those like us who invest in artists, and like the labels you heard from earlier, more use seems to be less of a return on investment.

[*Translation*]

Mr. Richard Hébert: My next question concerns precisely the point you're making. How are your artists remunerated at the ole company?

[*English*]

Mr. Jason Klein: Speaking as a music publisher, I would say the music publishers actually have one of the most creator-friendly remuneration models there are. There are several types of deals that we do, but for the typical publishing, which you may have heard of from the Canadian Music Publishers Association, there is generally a fifty-fifty rule that you split. That has become a bit of a convention. We refer to it as a writer's share and a publisher's share, and SOCAN is certainly very familiar with this concept. The performing rights societies are a big part of how that convention was established as it's codified in their distribution rules.

On a typical co-publishing agreement, where we invest in a songwriter and we acquire a share but not all of the copyright ownership, the typical co-publishing split there is about 75:25 in favour of the creator.

[*Translation*]

Mr. Richard Hébert: Now I'll turn to the two organizations.

I've heard a number of proposals, such as ending some of the exceptions under the act. Could payment of a royalty upon purchase of a cell phone or laptop or desktop computer be a solution to generate revenue to assist artists? Can you answer with yes or no?

What do you think, Mrs. Côté?

Mrs. Geneviève Côté: That's for sure. It's what M[e] Daigle was saying about private copying. We think this system should absolutely apply, regardless of what the music is copied onto. Not a lot of blank compact discs are sold any more.

Mr. Gilles Daigle: I can play Spotify's repertoire for you in five seconds.

[*English*]

Mr. Jason Klein: It's an essential way in which we all use music. I won't speculate, but most people who have smart phones are using them for music, and it's certainly the way we listen to and consume music.

We're in a pennies business more and more these days. We can't discount what appear to be small pieces of revenue because they all add up to what, at the end of the day, should justify our continued investment in music and the continued creation of new content.

The Chair: Thank you.

We will now go to Mr. Eglinski for seven minutes, please.

Mr. Jim Eglinski (Yellowhead, CPC): Thank you, Madam Chair.

Welcome to our presenters today.

On Saturday morning I woke up about six o'clock and flicked on the television and there was a gentleman selling CDs from the artists of the 1950s. I actually watched the program for an hour as they went through because that's my era of music. Patsy Cline was on there and Elvis and all of those. You can get 160-some songs for five simple, easy payments of $29.95, and if you send it immediately within the first eight minutes, you would get a free CD of Elvis alone.

I was thinking about our committee when I was watching this and I said, "I'm going to listen to this for a while." That's why I did listen for an hour, but the music was good. I could understand it as it was clear and precise. I don't remember the company that was pushing this but there was a guy on there for an hour and he was trying to sell. Would there be royalty rights going to those old stars for their doing something like that? It was a promotion program using the old music of the 1950s. I was just curious.

Mr. Klein.

● (1015)

Mr. Jason Klein: That really depends on what was on that compilation. There may be some sound recordings that have lapsed into the public domain. There may have been some that weren't, or are newer recordings of those older songs that are still protected. Certainly most of the compositions would likely still be protected by copyright, so there would have been some sort of back-end arrangement where the publishers likely were compensated to some degree for that, and to the extent that there were copyright-protected masters in there, there would have been some underlying deal. Of course, for the telethon, it was marked up substantially.

Unfortunately there are people who don't know about Spotify yet —

Voices: Oh, oh!

Mr. Jason Klein: They're prepared to spend those five easy payments. Most people are going for the 12 easy payments and getting everything, but it's good to know that's still there.

I think behind the scenes everyone is still getting paid.

Mr. Jim Eglinski: I was trying to determine how he could make money with probably 30 or 40 artists—a good number of them dead, but some still alive. How would he be making money at roughly $150 for all these songs, and yet if he had to pay royalties.... I was very curious, but so much for that. It's still there.

Mr. Jason Klein: It's probably a licence royalty per master. On a compilation, that would be ordinarily somewhere in the range of 10¢ to 15¢ per track.

Mr. Jim Eglinski: Okay.

Mr. Jason Klein: Then there would be a physical, or what we call on the publishing side, a mechanical royalty, to the extent that these are protected compositions, which is 8.1¢ per song in Canada. If you do the math on that and look at the retail markup, he's probably still doing okay. When you break that down on an individual songwriter basis, no one is making a ton of money there, other than the person selling that compilation for the five easy payments.

Mr. Jim Eglinski: It's guys like me, early in the morning.

Mr. Gilles Daigle: I think it's an interesting point that you raise. If the copies of those CDs and the embedding of the music in those CDs are made in Canada, and the CDs happen to have music from Sam Cooke, Jim Reeves, and Otis Redding, then there's a good chance that there wouldn't be any royalties payable to them because their works are not protected in Canada for 70 years, the way that they are in the United States. That's something that, of course, is of concern to us.

Mr. Jim Eglinski: You're right. Thank you.

Mr. Gordie Hogg: Did you buy it?

Mr. Jim Eglinski: No. My wife said, "No, use this."

I was going to say, "It's only $150." I'm old-fashioned. I'm trying to help out the poor guy.

Mr. Pierre Nantel: You could have made copies.

Mr. Jim Eglinski: Yes, I could have made copies.

Mr. Klein, you mentioned something about a Conductor program. You didn't go into it too much. I wonder if you could explain it a bit more. I would also like you to dwell on why the digital thing is the real challenge for you.

The second part of the question is, you tell us what we can do to help you on that. That is directed to the committee.

Mr. Jason Klein: Certainly. I'll turn to the Conductor question first. Conductor is a software solution that we've developed for internal purposes over the past five or six years. It does everything from ingesting the deals that we use when we enter into a new agreement with a writer or we purchase a catalogue.... All that information goes into Conductor. All of the works that are part of that deal are populated into that software. It takes care of ensuring that the works are properly registered around the world and with all the various societies, including SOCAN and its counterparts.

Most importantly, it pulls in the data that we receive from hundreds of different service providers, collective societies, and rights management agencies around the world. As you can imagine, that data doesn't always perfectly align. In fact, I would say it mostly doesn't. Our software works to conform that data, so that we can properly match it and ensure that we're not sitting with massive pending lists of unmatched royalties. It essentially ensures that we're distributing royalties accurately to our rights holders and that we're not missing anything.

That's the essence of what that software does. It sort of takes everything from the deal side all the way through to the user side and pulls all that data into one place. It does it very effectively. That's something we've developed over the past several years and it's been very helpful. Obviously, as part of the move to digital, the challenge we face is in data and ensuring that the data can be processed effectively, that royalties don't get missed, and that the reporting we receive is complete and accurate.

As for the move to digital, and the challenges, and what the committee and the government can do for us.... It goes back to the recommendations that we've all made. It's to ensure that, at the end of the day, we have the leverage we need, as creators and investors in creative output, to negotiate fair value for our rights. Essentially, that means revisiting some of the exceptions that were introduced in 2012.

Even the charity exception that Mr. Daigle mentioned is an example of how there's a slippery slope when you introduce user rights in the form of exemptions, where they're open to interpretation. They can be misinterpreted or applied in a way that doesn't necessarily reflect the original intention. I think that's what needs to be done here with the exceptions that we've identified, to ensure that we have the leverage that we need as rights holders to negotiate fair value for the use of our property.

● (1020)

Mr. Jim Eglinski: Thank you.

[*Translation*]

The Chair: Now we'll move on to Mr. Nantel, who will have seven minutes.

Mr. Pierre Nantel: Thank you very much, Madam Chair.

Thanks to the three witnesses for their presentations.

[*English*]

Mr. Klein, I'll speak in English. It will be simpler for you.

You spoke about Liz Rose. If I'm not mistaken, Liz Rose was a co-writer on many songs with Taylor Swift early in her career. I think she came up with a solo album one day.

Can you tell me, for example, the numbers since you co-published.... You published Liz Rose's stuff, the big international hits and her artisan work as well.

What are the differences? When you're a very big player, you can still make good money if you have a good song. However, I brought to this committee the example of Pharrell Williams, who with *Happy*, made one-twentieth of what Elton John made with *Goodbye Yellow Brick Road*, for example.

What is the comparison that you can see with your own published songwriters?

Mr. Jason Klein: I certainly can't speak to Liz Rose or any particular artist's or writer's royalties in particular. Certainly, when you have a hit song in 2018, the royalties are still substantial. The substantial royalties aren't really coming from the digital services, from what we've seen. We still have a very solid revenue on the traditional side, broadcasting and radio. That's where most of the money comes from. Mechanical and download is still there.

Even for the top-earning songs, it's not anywhere near where it use to be. I don't have statistics with me but it's certainly well laid out in Music Canada's report and the reports from the CMPA. The numbers on the digital side aren't anywhere near where they are currently from traditional platforms. It's not necessarily that we're concerned about it today, it's that we're concerned about where it's going.

Mr. Pierre Nantel: Of course.

I see Mrs. Côté nodding.

We've seen Beyoncé's husband who started his own music streaming service. We've seen your own Taylor Swift boycotting these streaming services for a while. Then she went up.

What is the issue with these streaming services? How can Canada, as a heritage procedure, support their artists in this difficult market?

● (1025)

Mr. Jason Klein: I really think it all comes back down to value as the issue. I don't think anyone has a problem with their content being....

Again, with Taylor Swift it's more of an artist concern, and we're primarily looking at it from a publisher—

Mr. Pierre Nantel: It's a statement.

Mr. Jason Klein: There's a statement potentially against that platform, but from our perspective it's all about the value return that we get from them.

One of the issues as well with exceptions is that.... There are two things that we have as rights holders. There's the right to be renumerated for the exploitation of our right. There's also the right to control its use, whether it's used or not used.

That right to control exploitation is a huge lever for us in the negotiation. Obviously, if you can pull your content that gives you a much firmer seat at the table.

That's why I think a big part of what our recommendations involve is revisiting these exclusions that really water down our ability to negotiate fair value for these services. We certainly don't have an issue as a publisher with having our content on as many platforms as possible. But we need to ensure that we are at the table and the organizations like SOCAN, which represent us, are at the table with entrenched rights that allow them to negotiate for proper return.

[*Translation*]

Mr. Pierre Nantel: Mrs. Côté and Mr. Daigle, do you want to comment on the question, since we're talking about you?

Mr. Gilles Daigle: Mr. Nantel, when new digital services pay royalties, rates will clearly have an impact on rights holders' revenues.

With regard to online services, everyone knows that the Copyright Board of Canada last year issued a decision that we found very disappointing. So we're stepping up our efforts and are working with those online services to negotiate agreements that we feel are more reasonable.

We often hear it said that rates can't exceed a certain level and that revenues must be higher than the royalties paid. However, no one talks about what happens when a service like Spotify becomes a public company. When it debuted on the stock exchange a few months ago, it generated $16 billion.

Mrs. Geneviève Côté: I thought it was $21 billion.

Mr. Gilles Daigle: In any case, we're talking about billions of dollars, but that money doesn't go into the pockets of rights holders.

It seems to me something must be done about the value gap. If there are applicable rates at the outset, and those rates are declining, that's definitely a very bad way to start the conversation.

Mrs. Geneviève Côté: We see that emerging from last week's CRTC report. We may finally decide to invite the GAFAs to the table, the players that enjoy the wealth produced by the use of content, both content used as a loss leader to promote device purchases and music that people merely listen to. Those businesses must share that wealth with the people who create and produce content. That's not currently the case.

As the SODRAC people said earlier, we hope Canada can do what the European Community is increasingly doing, which is to impose quotas in order to increase the discoverability of works so that they are consumed more, and more money is returned to the creators and remains in Canada.

Intellectual property is property. A few months ago, I heard a creator draw the following analogy concerning her house: no one could simply decide to live in her house and tell her he would pay her when he felt like it. Intellectual property is intangible, but it's still property, and it has to be respected.

The Chair: I now turn the floor over to Mr. Breton.

You have seven minutes.

Mr. Pierre Breton (Shefford, Lib.): Thank you very much, Madam Chair.

Thanks to you three for being with us this morning.

My first question is for Mr. Daigle and Mrs. Côté.

Back home, we have the Festival international de la chanson de Granby, with which you're very familiar. I have observed that, for many years, your organization has been a partner of that festival, which will be held from August 15 to 26. It's the biggest francophone song festival.

● (1030)

Mrs. Geneviève Côté: That will also be its 50th anniversary.

Mr. Pierre Breton: Yes, you're getting ahead of me. There will be 200 artists and 11 days of events and festivities. There: consider it advertised.

SOCAN is a partner in that festival and takes part in every edition. You even award the Prix de la chanson SOCAN.

I hope the festival pays the applicable royalties, but I know nothing about that. Whatever the case may be, thank you for taking part in the festival.

Our committee is examining remuneration models that are more modern and better meet the needs of Canadian artists.

Mr. Daigle and Mrs. Côté, you made three major recommendations that definitely merit further attention from us.

Have remuneration models evolved elsewhere in the world? Have those models already been modernized? I know you're asking that protection be extended to 70 years after the author's death instead of 50 years. In some countries, protection even extends to 100 years after the author's death. Tell us about other models that have been examined, other studies that have been done, or other measures that have been taken or are being developed in other countries.

Mr. Klein can then answer the question as well.

Mr. Gilles Daigle: You noted our recommendation regarding the term of protection. In fact, several countries long ago adopted protection of up to 70 years after the author's death. Consequently, we can't really say that progress has been made. That's a historical decision that was made 20, 25 or 30 years ago. It's up to Canada to catch up in this area.

Some progress has obviously been made on private copying. In Europe, responsibility is enforced when people buy smart phones and tablets because the Europeans recognize what we consider an obvious fact: that people use those tools to make copies and to listen to musical works by streaming them. We can't understand why, in 2018, the tablets and telephones that people readily use to listen to music aren't viewed in the same way as cassettes and blank CDs, for which they agree to pay royalties. Here too, Canada really has some catching up to do.

Mr. Pierre Breton: Is that the case in all European Union countries?

Mr. Gilles Daigle: I'm definitely talking about the European Union countries, starting with France. We have some additional information on the subject in a document we will be submitting to the committee. We can provide you with an exact list of countries.

Mrs. Geneviève Côté: The European Union has already issued a clear directive. The countries are in the process of incorporating it in their statutes. France is definitely at the top of the class in this area.

Mr. Gilles Daigle: Lastly, I would say we're beginning to realize something, and our SODRAC and CIMA colleagues mentioned it this morning: *dumb pipes*, that is to say, simple transmission channels, are not as dumb as we thought. Internet access providers enjoy and greatly benefit from access to the music they give their clients. That can't be denied.

In Europe, they're beginning to recognize that the nearly complete exception they are granted isn't necessarily a good thing. Somewhat like what we are doing, the Europeans are reviewing and rethinking everything, although they may not have achieved their objective yet. It's high time we recognized that this is a benefit, whether you call it an unjustified enrichment or anything else, and one that hurts rights holders.

● (1035)

Mrs. Geneviève Côté: I'd like to add something on the subject of *dumb pipes*. For a long time, we thought they really were that. Now they're capable of promoting data use. For example, in a monthly 100-megabyte subscription, they tell customers that listening to music on Spotify won't cut into their 100 megabytes. So they know what we're doing.

You can include that in your discussion.

[*English*]

Mr. Pierre Breton: Mr. Klein, do you have something to add?

Mr. Jason Klein: No. I did receive from my ISP a free subscription to Spotify for a year as part of a wireless package. This certainly is value of music at the ISP level. I'm not sure that I can speak to any international initiatives to establish new remuneration models necessarily. I could certainly talk about evolving remuneration structures within the industry, like the publisher–label–artist relationships, if that's of interest.

To the points that were raised by SOCAN, I think it's very important to ensure that the principles that we've always based our negotiations on—the exclusive right to control how our works are used, reproduced, and performed—be technology-neutral and adaptable to changes in technology that are much more rapid than our legislative reform can possibly be. I think we need to ensure that this is addressed, both through the exemptions but also through looking at things like the private copy. Requests have been unanimous to try to make that technologically neutral, so that as people move to reproducing music on smart phones, tablets, or whatever comes next, we have a law that gives us a seat at the table, and wherever there's a commercially valuable use of our music, which we've invested in and created, we have the ability to negotiate fair value. I don't think the principles need to change, but we need to ensure that they can extend to new technologies and developments.

The Chair: Thank you very much.

We will now go to Mr. Shields for five minutes, please.

Mr. Martin Shields: Thank you, Madam Chair.

I'm really interested in the discussion, especially where you're rendering...because that's where I wanted to go. In my house, where's the cable for my TV? I don't think it's there anymore. Where's the land line? No, I don't think it's there anymore. My grandkids—because we still have an old land line phone sitting there—think that belongs in a museum. We're changing as rapidly as the younger generation has.

I've heard your suggestions. The 50 to 70 has come up and I think everybody has talked about that and the hardware issue. Defining hardware... as you say, things are changing rapidly and writing legislation is often behind what's happening out there in the world. That's the challenge we have with this one, because you're not dealing with concrete things, you're dealing in the aesthetic world. How do you write legislation and recommendations? I know the 50 to 70, that's a simple one, but what else would we put in there? For the future—if you're talking future—it's easy to say, "Hey, it's rapidly changing". We know it's all going to be dead tomorrow, and this hand-held thing is going to be gone.

Mr. Jason Klein: I think it's a matter of potentially putting less in and not more. It's not limiting rights to particular platforms. It's making rights general and stating them in general terms, which is really where we started before this slew of new exceptions came in.

To the extent that there are exceptions—and perhaps they're appropriate in the case of personal, non-commercial uses by individuals—as soon as commercial enterprise is involved, and they're trading on the value in our intellectual property, we need to keep it simple. The message needs to be that you can't use that without returning fair value to the creators.

I think it's probably a "less is more" scenario than over-drafting in order to address the future. It's keeping the principles simple and clear, and I think that will likely lead to more neutrality in terms of the future technology that develops.

Mr. Martin Shields: Okay.

Mr. Daigle.

Mr. Gilles Daigle: First of all, it's a great question. I think it's interesting that when you look at the key asks—if I can put it that way—that the music industry stakeholders have put forward, they in fact can be corrected with very little legislative change.

You talked about the obvious example of changing 50 to 70. It wouldn't take much to entrench the concept of technological neutrality in the Copyright Act in order to, I would expect, fix what is currently wrong with the private copying regime. That's another example of a relatively easy fix.

We think there are relatively easy fixes to the language that has proven problematic for SOCAN on the charitable exemptions issue.

I would tend to agree with my friend that often less is more. I don't think we have to bring in overwhelming changes to the legislation to address what appear to be the biggest concerns of the stakeholders in the music industry.

● (1040)

Mr. Martin Shields: So in generalities, but with some very few specific payback mechanisms that are really clear—

Mr. Gilles Daigle: That's right. A lot of discussion earlier today, or some discussion earlier today, was on the current exemption for commercial radio stations, the so-called $1.25 million. It' a very short section. It just needs to be deleted.

Some hon. members: Oh, oh!

Mr. Martin Shields: That's a good way to shorten it.

Mr. Gilles Daigle: It should be deleted because it represents nothing more than a subsidy that has been provided for way too long.

I hear discussion about mom-and-pop stations. Well, mom-and-pop stations' revenues are lower than the big stations. If your revenues are lower, when it comes to SOCAN and Re:Sound, it's a percentage of revenue tariff. You pay less.

Mr. Martin Shields: Yes.

When you refer to the international ones—I'm out of time.

The Chair: I was just checking to see how much time we have here. You have 30 seconds.

Mr. Martin Shields: Just quickly, on the foreign ones, when you talk about what's happening in France, for example, does it align with what you two have just said as far as legislation...less, general?

Mr. Gilles Daigle: That is something I'd be happy to get back to the committee on after taking a closer look.

To be fair on some of these issues, they are ongoing. They haven't necessarily come to a landing on all of them, but we'd be happy to report on those activities as part of a document for the committee, if we may.

Mr. Martin Shields: Please.

Thank you.

The Chair: Thank you.

That pretty much brings us to the end of the questioning.

I have one quick question I was hoping to ask. As we've been listening to testimony, I've heard that it has been a lot about changes to the legislation itself. One issue that had been raised when I had spoken with artists in my community was about the enforcement mechanisms, and that the best legislation in the world.... What are the enforcement mechanisms that might be needed, or are there improvements needed to that?

We really do have only a couple of minutes, but I was wondering if you have any thoughts as to whether something needs to be done on the enforcement side as well.

Mr. Gilles Daigle: From my perspective, the problem with enforcement is that it takes forever. If you get into a dispute, in the way that SOCAN and other collectives have, on issues such as online liability and whatnot.... I was there in 1995 when SOCAN was the first society, the first collective, to file a tariff for Internet uses of music. We were told at the time that we were crazy and that it was way too early to do so, but we thought, "You know what? We think it's going to take awhile for this to get sorted out." We're still fighting, and we're still in the courts over whether or not we need to pay money back for ring tones that were paid for. Do you remember ring tones? Do you remember what those are? We're fighting over $13 million, being asked to pay back money that we received in 2006, because it's not clear whether we can keep it or not.

My suggestion there on enforcement is that, especially when it comes to a society like SOCAN, maybe what we need, in fact, is more flexibility to negotiate our own agreements, to have our own private discussions, and to rely on the Copyright Board only when we feel it's absolutely necessary, as opposed to being subjected to do it on a mandatory basis. But that's yet another discussion.

The Chair: Mr. Klein, you have 30 seconds.

Mr. Jason Klein: I would only say that, going back to the ISP discussion that we had, it's not necessarily all about remuneration, although it would certainly be nice if we could negotiate that. One of the things that has been brought up is the ability to require ISPs to issue site-blocking injunctions and that type of thing. If we could look at ISP involvement in enforcement, I think that could be a big help, too.

● (1045)

The Chair: Thank you very much.

Thank you, Mr. Eglinski, for sharing your early morning TV watching with us. It was a very interesting morning.

The meeting is adjourned.

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